

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
NORBERTO MERCADO,

Plaintiff,
-against-

CAROLYN COLVIN,
Acting Commissioner of Social Security,

Defendant.

-----X
AMENDED
FINDINGS OF FACT AND ORDER
15 Civ. 2283 (JCF)

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 5/7/2020

Plaintiff and Irwin M. Portnoy, Esq. agreed that Plaintiff would pay the larger of the two fees under 28 U.S.C. §2412 and 42 U.S.C. §406(b), as follows:

“(1) an amount equal to 25% of past due benefits resulting from my claim or claims (which I understand may exceed \$900.00 per hour) or (2) such amount as my attorneys are able to obtain pursuant to the Equal Access to Justice Act (EAJA) 28 U.S.C. 2412 . . .”

Plaintiff’s attorneys furnished substantial services to Mr. Mercado in pursuing the instant civil action. It resulted in a judgment under sentence 4, 42 U. S. C. §405(g) pursuant to a Court Order remanding the within action for further administrative proceedings.

Mr. Mercado was awarded attorneys fee under 28 U.S.C. §2412 (the Equal Access to Justice Act)(Document 32)

Defendant has issued a Notice of Award in which \$23,830.50 was withheld from past due benefits to pay attorneys fees.

Administrative proceedings were completed, and resulted in an award of disability benefits to the plaintiff.

There is no reason to deduct from the fee that plaintiff’s attorney seeks by reason of (a)

any delay on his part, (b) fraud, or overreaching by plaintiff's attorney; (c) the results they achieved in this action achieved the object of the bargain made between plaintiff and their attorneys, and (d) the character of the representation in this matter.

Defendant's counsel has not objected to the motion.

The fee plaintiff's attorneys have applied for is reasonable under all the circumstances.

NOW THEREFORE IT HEREBY IS ORDERED THAT plaintiff's attorneys be paid the sum of \$13,984.45 for their services in this action. They shall refund to plaintiff the fee allowed under 28 U.S.C. §2412.

SO ORDERED:



May 7, 2020

Date

HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE